



Introduced Version

SENATE BILL No. _____

DIGEST OF INTRODUCED BILL

Citations Affected: IC 11-8-8; IC 35-42-3.5-1.

Synopsis: Human trafficking. Provides that recruiting, harboring, or transporting another person to participate in sexual conduct by force, threat of force, or fraud constitutes human trafficking. Provides that a person who recruits, harbors, or transports a child less than 16 years of age with the intent of engaging the child in forced labor, involuntary servitude, prostitution, or sexual conduct commits promotion of human trafficking of a minor, a Class B felony. Prohibits a person at least 18 years of age from selling or transferring custody of a child less than 16 years of age for the purpose of prostitution or participation in sexual conduct. (The introduced version of this bill was prepared by the Criminal Code Evaluation Commission.)

Effective: Upon passage.

Head, Banks, Walker

_____, read first time and referred to Committee on _____

20121225

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LS 6261/DI 106+



PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

SENATE BILL

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 11-8-8-4.5, AS ADDED BY P.L.216-2007,
2 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 4.5. (a) Except as provided in section 22 of
4 this chapter, as used in this chapter, "sex offender" means a person
5 convicted of any of the following offenses:
6 (1) Rape (IC 35-42-4-1).
7 (2) Criminal deviate conduct (IC 35-42-4-2).
8 (3) Child molesting (IC 35-42-4-3).
9 (4) Child exploitation (IC 35-42-4-4(b)).
10 (5) Vicarious sexual gratification (including performing sexual
11 conduct in the presence of a minor) (IC 35-42-4-5).
12 (6) Child solicitation (IC 35-42-4-6).
13 (7) Child seduction (IC 35-42-4-7).
14 (8) Sexual misconduct with a minor as a Class A, Class B, or
15 Class C felony (IC 35-42-4-9), unless:
16 (A) the person is convicted of sexual misconduct with a minor
17 as a Class C felony;



- 1 (B) the person is not more than:
- 2 (i) four (4) years older than the victim if the offense was
- 3 committed after June 30, 2007; or
- 4 (ii) five (5) years older than the victim if the offense was
- 5 committed before July 1, 2007; and
- 6 (C) the sentencing court finds that the person should not be
- 7 required to register as a sex offender.
- 8 (9) Incest (IC 35-46-1-3).
- 9 (10) Sexual battery (IC 35-42-4-8).
- 10 (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen
- 11 (18) years of age, and the person who kidnapped the victim is not
- 12 the victim's parent or guardian.
- 13 (12) Criminal confinement (IC 35-42-3-3), if the victim is less
- 14 than eighteen (18) years of age, and the person who confined or
- 15 removed the victim is not the victim's parent or guardian.
- 16 (13) Possession of child pornography (IC 35-42-4-4(c)).
- 17 (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony.
- 18 (15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the
- 19 victim is less than eighteen (18) years of age.
- 20 (16) Sexual trafficking of a minor ~~(IC 35-42-3.5-1(b))~~:
- 21 **(IC 35-42-3.5-1(c)).**
- 22 (17) Human trafficking ~~(IC 35-42-3.5-1(e)(3))~~
- 23 **(IC 35-42-3.5-1(d)(3))** if the victim is less than eighteen (18)
- 24 years of age.
- 25 (18) An attempt or conspiracy to commit a crime listed in
- 26 subdivisions (1) through (17).
- 27 (19) A crime under the laws of another jurisdiction, including a
- 28 military court, that is substantially equivalent to any of the
- 29 offenses listed in subdivisions (1) through (18).
- 30 (b) The term includes:
- 31 (1) a person who is required to register as a sex offender in any
- 32 jurisdiction; and
- 33 (2) a child who has committed a delinquent act and who:
- 34 (A) is at least fourteen (14) years of age;
- 35 (B) is on probation, is on parole, is discharged from a facility
- 36 by the department of correction, is discharged from a secure
- 37 private facility (as defined in IC 31-9-2-115), or is discharged
- 38 from a juvenile detention facility as a result of an adjudication
- 39 as a delinquent child for an act that would be an offense
- 40 described in subsection (a) if committed by an adult; and
- 41 (C) is found by a court by clear and convincing evidence to be
- 42 likely to repeat an act that would be an offense described in



1 subsection (a) if committed by an adult.

2 (c) In making a determination under subsection (b)(2)(C), the court
3 shall consider expert testimony concerning whether a child is likely to
4 repeat an act that would be an offense described in subsection (a) if
5 committed by an adult.

6 SECTION 2. IC 11-8-8-5, AS AMENDED BY P.L.216-2007,
7 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 UPON PASSAGE]: Sec. 5. (a) Except as provided in section 22 of this
9 chapter, as used in this chapter, "sex or violent offender" means a
10 person convicted of any of the following offenses:

- 11 (1) Rape (IC 35-42-4-1).
- 12 (2) Criminal deviate conduct (IC 35-42-4-2).
- 13 (3) Child molesting (IC 35-42-4-3).
- 14 (4) Child exploitation (IC 35-42-4-4(b)).
- 15 (5) Vicarious sexual gratification (including performing sexual
16 conduct in the presence of a minor) (IC 35-42-4-5).
- 17 (6) Child solicitation (IC 35-42-4-6).
- 18 (7) Child seduction (IC 35-42-4-7).
- 19 (8) Sexual misconduct with a minor as a Class A, Class B, or
20 Class C felony (IC 35-42-4-9), unless:
 - 21 (A) the person is convicted of sexual misconduct with a minor
22 as a Class C felony;
 - 23 (B) the person is not more than:
 - 24 (i) four (4) years older than the victim if the offense was
25 committed after June 30, 2007; or
 - 26 (ii) five (5) years older than the victim if the offense was
27 committed before July 1, 2007; and
 - 28 (C) the sentencing court finds that the person should not be
29 required to register as a sex offender.
- 30 (9) Incest (IC 35-46-1-3).
- 31 (10) Sexual battery (IC 35-42-4-8).
- 32 (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen
33 (18) years of age, and the person who kidnapped the victim is not
34 the victim's parent or guardian.
- 35 (12) Criminal confinement (IC 35-42-3-3), if the victim is less
36 than eighteen (18) years of age, and the person who confined or
37 removed the victim is not the victim's parent or guardian.
- 38 (13) Possession of child pornography (IC 35-42-4-4(c)).
- 39 (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony.
- 40 (15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the
41 victim is less than eighteen (18) years of age.
- 42 (16) Sexual trafficking of a minor (~~IC 35-42-3.5-1(b)~~).



(IC 35-42-3.5-1(c)).

(17) Human trafficking (~~IC 35-42-3.5-1(c)(3)~~)
(IC 35-42-3.5-1(d)(3)) if the victim is less than eighteen (18) years of age.

(18) Murder (IC 35-42-1-1).

(19) Voluntary manslaughter (IC 35-42-1-3).

(20) An attempt or conspiracy to commit a crime listed in subdivisions (1) through (19).

(21) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through (20).

(b) The term includes:

(1) a person who is required to register as a sex or violent offender in any jurisdiction; and

(2) a child who has committed a delinquent act and who:

(A) is at least fourteen (14) years of age;

(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and

(C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

(c) In making a determination under subsection (b)(2)(C), the court shall consider expert testimony concerning whether a child is likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

SECTION 3. IC 35-42-3.5-1, AS ADDED BY P.L.173-2006, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A person who, **by force, threat of force, or fraud**, knowingly or intentionally recruits, harbors, or transports another person: ~~by force, threat of force, or fraud:~~

(1) to engage the other person in:

(A) forced labor; or

(B) involuntary servitude; or

(2) to force the other person into:

(A) marriage; ~~or~~

(B) prostitution; ~~or~~

(C) **participating in sexual conduct (as defined by IC 35-42-4-4);**



commits promotion of human trafficking, a Class B felony.

(b) A person who knowingly or intentionally recruits, harbors, or transports a child less than sixteen (16) years of age with the intent of:

(1) engaging the child in:

(A) forced labor; or

(B) involuntary servitude; or

(2) inducing or causing the child to:

(A) engage in prostitution; or

(B) participate in sexual conduct (as defined by IC 35-42-4-4);

commits promotion of human trafficking of a minor, a Class B felony. It is not a defense to a prosecution under this subsection that the child consented to engage in prostitution or to participate in sexual conduct.

~~(b) A parent, guardian, or custodian of~~ **(c) A person who is at least a child less than eighteen (18) years of age who knowingly or intentionally sells or transfers custody of the a child less than sixteen (16) years of age for the purpose of prostitution or participating in sexual conduct (as defined by IC 35-42-4-4) commits sexual trafficking of a minor, a Class A felony.**

~~(c)~~ **(d) A person who knowingly or intentionally pays, offers to pay, or agrees to pay money or other property to another person for an individual who the person knows has been forced into:**

(1) forced labor;

(2) involuntary servitude; or

(3) prostitution;

commits human trafficking, a Class C felony.

SECTION 4. An emergency is declared for this act.

